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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/619,017 | 07/14/2003 | Stephen C. Thatcher | 10,220 | 8801 |

7590 04/01/2004

John C. McMahon
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Kansas City, MO 64112

EXAMINER

KOVACS, ARPAD F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3671

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|--|--|
| Office Action Summary | Application No. 10/619,017 | Applicant(s) THATCHER ET AL. | |
| | Examiner Árpád Fábíán Kovács | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/14/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, 20-28, drawn to a parallelogram suspension system for deck height adjustment, classified in class 56, subclass 15.8.
 - II. Claims 17-19, drawn to pulley belt tensioning system, classified in class 56, subclass 11.6.
2. Inventions Group I and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of Group I has separate utility such as pivoting & adjusting the height of the mower deck in the manner specified in the claims 1-16, 20-28; while Group II only discloses a pulley belt tensioning system for a mower without any specifics to a parallelogram height adjusting mechanism; it is further noted that Group I does not claim a belt tensioning mechanism; therefore a mower can operate with the claimed height adjusting mechanism without utilizing a belt tensioning mechanism; see for example Siegrist (4869057), Velke et al (6658831). See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Art Unit: 3671

4. During a telephone conversation with John McManon on 3/30/2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16, 20-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The phrase "said" should be removed.

6. The abstract of the disclosure is objected to because the phrase "fine height adjustment mechanism" is misleading, because as outlined in the abstract, an adjustment mechanism is already disclosed as a hook & capture device. Correction is required. See MPEP § 608.01(b).

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "spacing arm" (cl. 9); "fine length adjustment mechanism" (cl. 15); "gross height adjustment mechanism" (cl. 24) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Features not shown or unclear will not be examined on its merit.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-10, 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Features not shown or unclear will not be examined on its merit.

In re claim 28, as disclosed in the drawings fig. 8, & on page 14, the height adjustment & release mechanism (ref 79) is mounted on the frame (ref 12), and not on the deck, similarly the capture bail (ref 102) is mounted on the frame (ref 12) and not on the deck; also, the hook (ref 87) is mounted on the deck via the ears (ref 86) and not on the height adjustment mechanism (ref 79); therefore, as claimed the claim(s) is/are indefinite and confusing.

In re claim 9, paragraph c & d, and claim 10, it is confusing how the first member being a hook and the second member (cl. 10) is also a hook and mounted on two different apparatus of an arm and/or deck.

Claim Rejections - 35 USC § 102

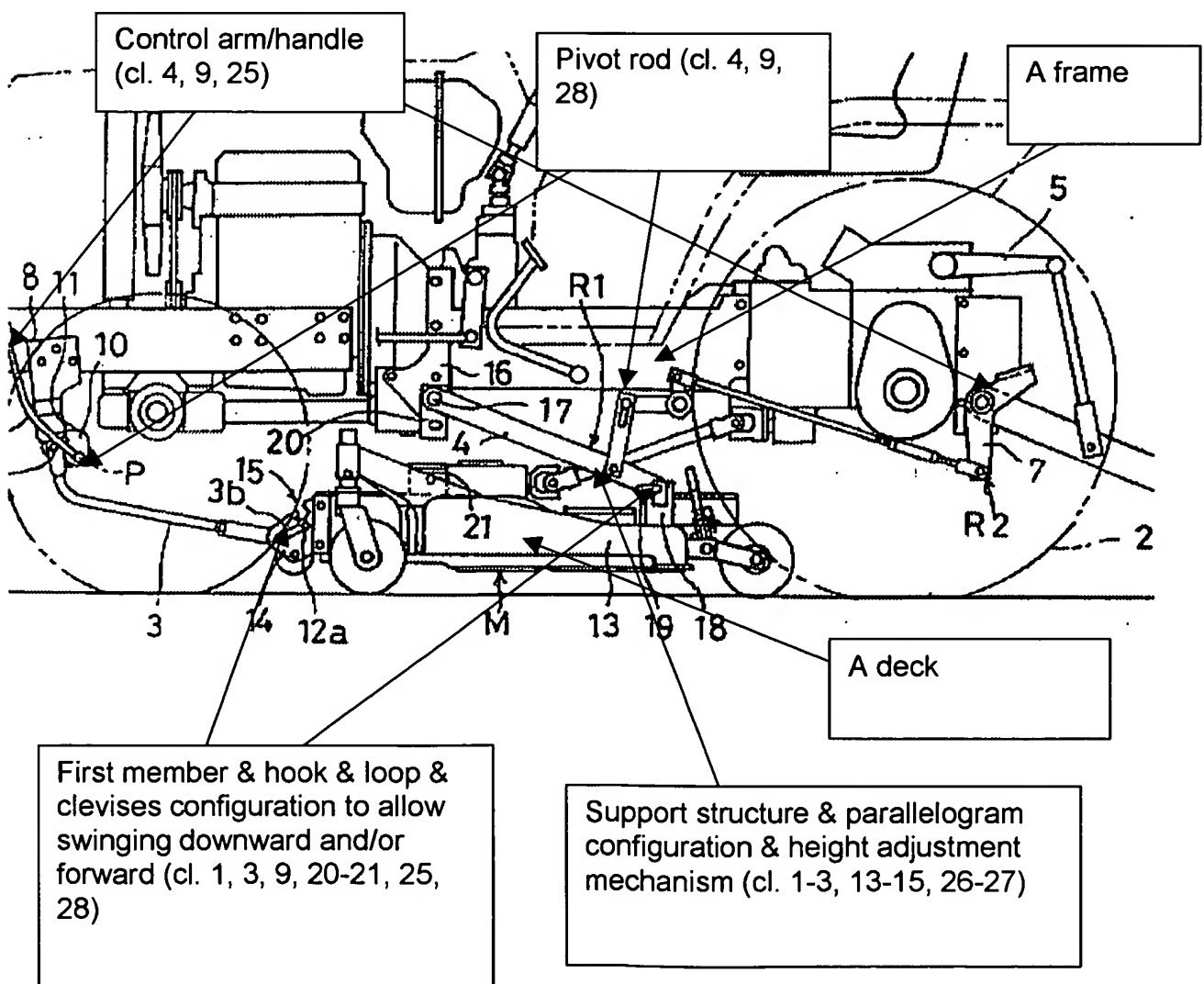
9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

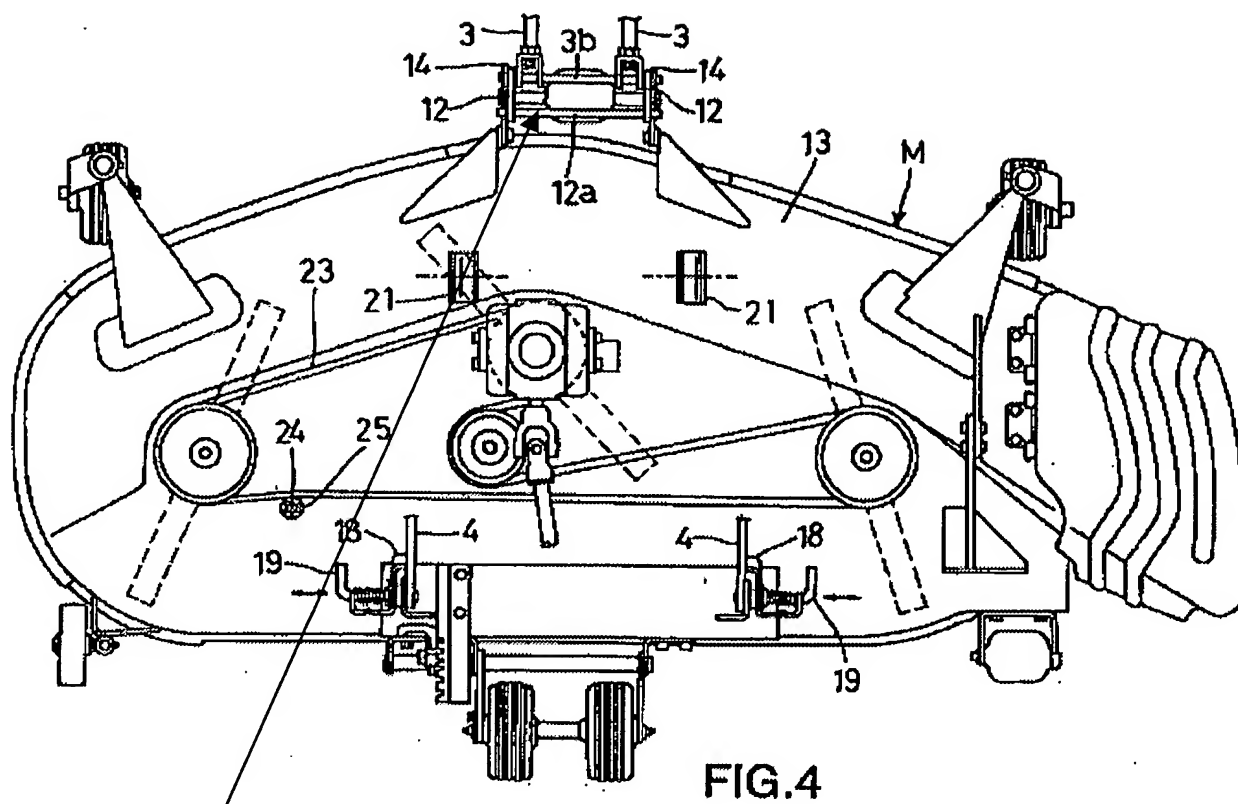
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

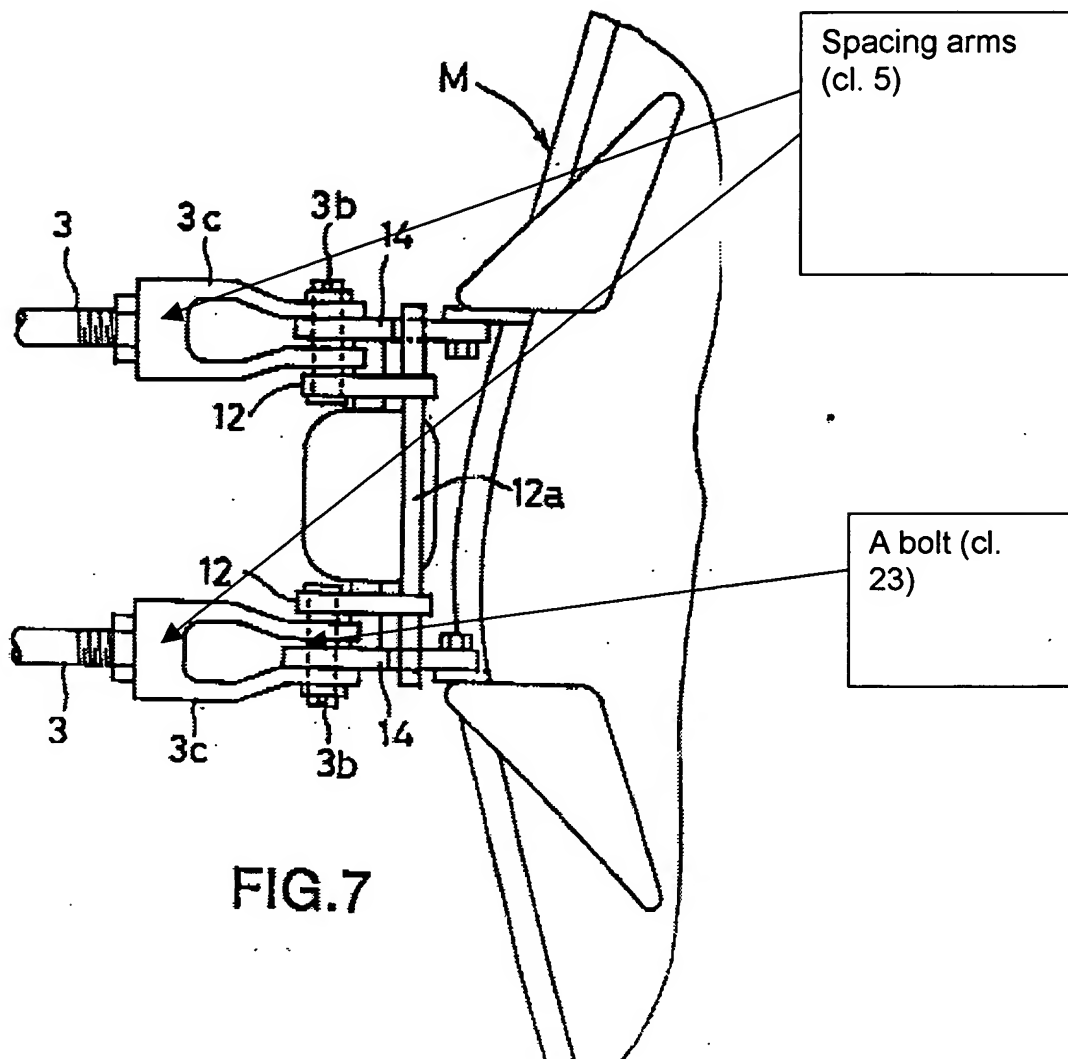
10. Claims 1-16, 20-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kure et al (5528889).

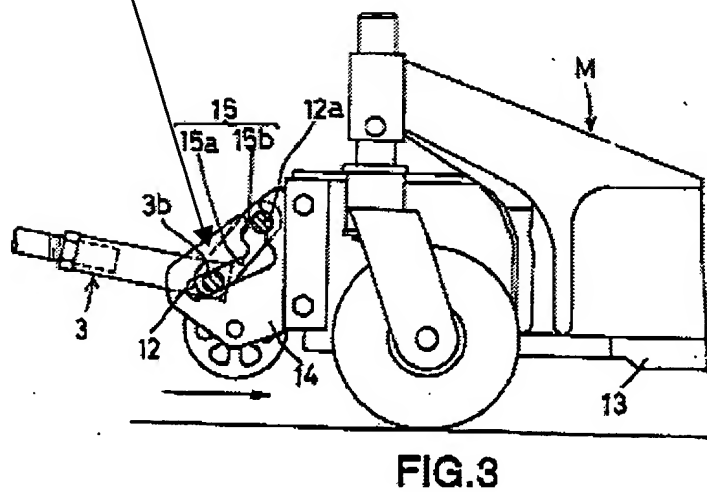
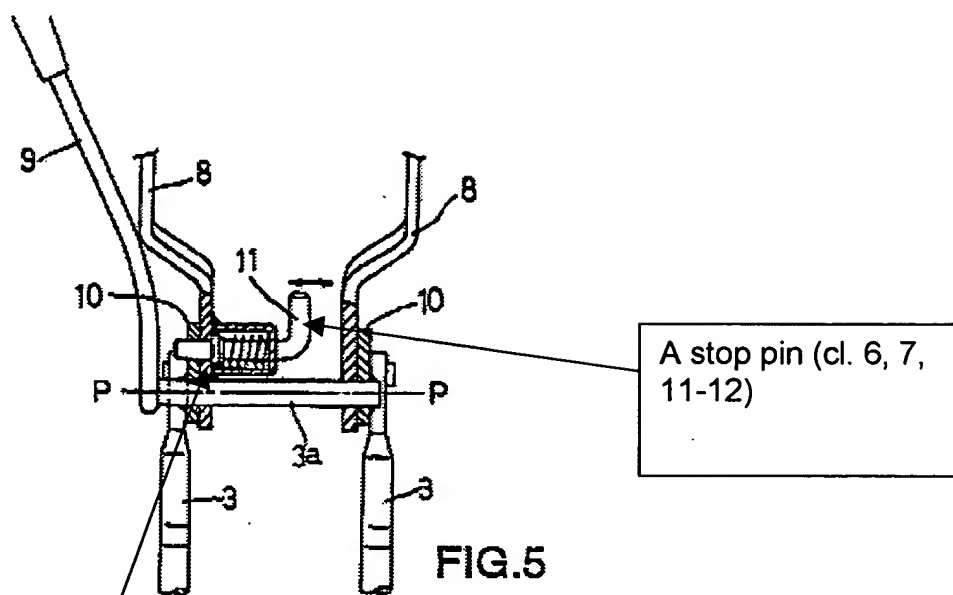
Kure discloses as best shown in the marked up drawings below for greater clarity:





A pivot rod/bail (cl. 4, 10,
25, 28)






Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Velke et al, Buss, Buss et al., Schick, Plas et al., Schmidt, Schemelin et al., Kuhn et al., Siegrist.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK